

Office of Drug Enforcement and Program Compliance
49 CFR Part 40 Interpretation

Question: Is a current and valid picture/photo identification required before a urine collection takes place or can a physical description verification by telephone by an employer representative suffice?

Response: Section 40.25(f)(2) states "*...the collection site person shall ensure that the individual is positively identified as the employee selected for testing (e.g., through presentation of photo identification or identification by the employer's representative). If the individual's identity cannot be established, the collection site person shall not proceed with the collection.*" The rule does not address if the photo identification is current nor does it prohibit telephonic verification of identity. The intent of the rule was that if the employee did not have proper identification, an employer's representative would be on site to properly identify that employee. There is no requirement that the representative sign any type of form, although procedures should be established to ensure the true identity of the representative.

If telephonic identification is used, specific procedures should be in place to ensure that the employer representative is fully identified to the collection site person and that reasonable procedures exist to ensure that the employer's representative can truly identify the employee. If the employee's identification cannot be established to the satisfaction of the collection site person (or based on the collection site protocol for identification), the collection should not be completed. Additionally, any identification procedure allowed under specific DOT operating administration's rules is also permissible.

Exception: If the donor is self-employed and has no photo identification, the collector should notify the collection site supervisor and record in the remarks section that positive identification is not available. The donor must be asked to provide two items of identification bearing his/her signature. Proceed with the collection. When the donor signs the certification statement, compare the donor's signature with signatures on the identification presented. If the signatures appear consistent, continue the collection process. If the signature does not match signatures on the identification presented, make an additional note in remarks section stating that "signature identification is unconfirmed" and continue the collection process.

When this (self-employed) donor does not have appropriate identification this should not be considered a refusal. The collector should remember that his/her primary function is to obtain a specimen that can be tested for drugs under DOT rules. The collector should provide sufficient information in the remarks section to help the MRO make a determination regarding the merit of the collection process or for the employer to determine if there are systemic problems or other shortfalls in their policy/program.